

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TYRONE D. JOHNSON,)	Case No. 5:15CV573
)	
Plaintiff,)	JUDGE SARA LIOI
)	
v.)	Magistrate Judge George J. Limbert
)	
PAUL WRIGHT, et al.,)	
)	<u>REPORT AND RECOMMENDATION</u>
Defendants.)	

On October 6, 2015, the undersigned issued an Order to Show Cause due to Plaintiff Tyrone D. Johnson's ("Plaintiff") failure to participate in this case. ECF Dkt. #19. The Order to Show Cause indicated that Plaintiff had failed to attend a case management conference held on September 4, 2015. *Id* at 1. Plaintiff did not contact the Court or provide any explanation for his failure to attend the September 4, 2015 case management conference. Additionally, Defendants Paul Wright, Richard Wright, and Lt. Stokes ("Defendants") filed a Motion for Judgment on the Pleadings on August 17, 2015. ECF Dkt. #14. Plaintiff did not file any response to Defendants' Motion for Judgment on the Pleadings. Plaintiff has not filed any documents or contacted the Court to explain his failure to participate in this case.

The Order to Show Cause explicitly stated that Plaintiff's failure to show cause will result in a recommendation that the Court dismiss the instant case without prejudice. Additionally, the Order to Show Cause explained that the Federal Rules of Civil Procedure allow the Court to dismiss a case in which a party fails to participate, stating:

Rule 16(f) of the Federal Rules of Civil Procedure is entitled “Sanctions” and provides, in relevant part:

(1) *In General*. On motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii) - (vii), if a party or its attorney:

(A) fails to appear at a scheduling or other pretrial conference;

Fed. R. Civ. P. 16(f)(1)(A). Rule 37(b)(2)(A)(vi) of the Federal Rules of Civil Procedure instructs that this Court may render a default judgment against a disobedient party. Fed. R. Civ. P. 37(b)(2)(A)(vi). Rules 16 and 37 make clear the power of the Court to use various measures in order to manage cases so as to avoid unnecessary delay and congestion. *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962).

ECF Dkt. #19 at 1-2. As of November 5, 2015, the thirty day window provided to Plaintiff to show cause for his failure to participate in this case has lapsed. Plaintiff has failed to comply with the October 6, 2015 Order to Show Cause.

For the above reasons, the undersigned recommends that the Court DISMISS the instant case without prejudice.

Dated: November 6, 2015

/s/George J. Limbert
GEORGE J. LIMBERT
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice. Fed. R. Crim. P. 59. Failure to file objections within the specified time constitutes a WAIVER of the right to appeal the Magistrate Judge’s recommendation. *Id.*